

PROJECT NO. 45078

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|-----------------------------------|----------|----------------------------------|
| RULEMAKING RELATED TO | § | PUBLIC UTILITY COMMISSION |
| DISTRIBUTED GENERATION | § | |
| INTERCONNECTION AGREEMENTS | § | OF TEXAS |
| | § | |

STAFF STRAWMAN RULE

The staff of the Public Utility Commission of Texas requests comments on the following strawman amendments to 16 TAC § 25.211, relating to Interconnection of On-site Distributed Generation. Project No. 45078 has been assigned to this proceeding. The proposed amendments address with whom an electric utility will execute the Agreement for Interconnection and Parallel Operation of Distributed Generation (IA) in light of the fact that certain types of distributed generation may be owned or operated by parties other than the utility's end-use customer. Please note that two versions ("Option 1" and "Option 2") of the Interconnection Agreement and Tariff have been included in the strawman: Option 1 anticipates that only an end use-customer would be a signatory to the agreement; Option 2 would allow parties other than an end-use customer to execute the agreement.

Staff received comments from stakeholders regarding whether only an end-use customer should be allowed to be a signatory to an IA, or whether other parties should be allowed or required to execute an IA in P.U.C. Project No. 42532. Staff now seeks comments regarding modifications to the IA and Tariff needed to implement one or the other option.

These comments will be useful in developing a proposed rule (Proposal for Publication) that is expected to be published for comment. Comments on the strawman (16 copies) may be submitted

to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, before 3 p.m. on October 26.

Comments should be organized in a manner consistent with the organization of the draft rule. All comments should refer to Project Number 45078. Questions concerning the comments or this notice should be referred to David Smithson, Infrastructure & Reliability Division, (512)-936-7156.

Commission Staff will conduct a workshop regarding this project on Thursday, October 29th at 9:30 A.M. in the Commissioners' Hearing Room located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Persons desiring to make a presentation at this workshop should contact David Smithson at (512)936-7156 by October 22 to be included on the agenda.

On Friday, October 23rd Commission Staff will post under Project No. 45078 in Central Records an agenda for the format of the workshop.

Questions concerning the workshop or this notice should be referred to David Smithson, Infrastructure & Reliability Division at (512)936-7156. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

[Option 1: Draft interconnection agreement and tariff providing for only the end-use customer to be a signatory to the agreement]

§25.211. Interconnection of On-Site Distributed Generation (DG).

(a) – (o) (No change.)

(p) **Agreement for Interconnection and Parallel Operation of Distributed Generation.**

**AGREEMENT FOR INTERCONNECTION AND PARALLEL OPERATION
OF DISTRIBUTED GENERATION**

This Interconnection Agreement (“Agreement”) is made and entered into this _____ day of _____, 20, by _____, (“Company”), and _____ (“Customer”), a _____ [specify whether individual or corporation, and if ~~so~~ corporation, name state, municipal corporation, cooperative corporation, or other], each hereinafter sometimes referred to individually as “Party” or both referred to collectively as the “Parties”. In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. **Scope of Agreement** -- This Agreement is applicable to conditions under which Company and Customer agree that one or more generating facility or facilities of ten megawatts or less and related interconnecting facilities to be interconnected at less than 60 kilovolts (“Facilities”) may be interconnected to Company’s facilities, as described in Exhibit A. This Agreement is applicable where Customer is Company’s end-use customer and the Facilities are owned by Customer; or Customer is Company’s end-use customer, but the Facilities are owned by a third party generator (“Generator”) and not by Customer. This Agreement is also applicable where the premises upon which the Facilities will be located is owned by Customer, Generator, or a person or entity other than Customer or Generator (“Premises Owner”).

The definitions of terms used herein shall be those found in Public Utility Commission of Texas ("Commission") Substantive Rules 25.211, relating to Interconnection of On-Site Distributed Generation, and -25.212, relating to Technical Requirements for Interconnection and Parallel Operation of On-Site Distributed Generation (16 Texas Administrative Code §25.211 and §25.212) (the "Rules").

2. **Establishment of Point(s) of Interconnection** -- Company and Customer agree to interconnect Facilities at the locations specified in this Agreement, in accordance with ~~Public Utility Commission of Texas ("Commission") Substantive Rules 25.211, relating to Interconnection of Distributed Generation, and 25.212, relating to Technical requirements for Interconnection and Parallel Operation of On Site Distributed Generation (16 Texas Administrative Code §25.211 and §25.212) (the "Rules")~~ or any successor rules addressing distributed generation and as described in the attached Exhibit A (the "Point(s) of Interconnection").

3. **Responsibilities of Company and Customer** -- Customer ~~shall, at its own cost and expense, shall be fully responsible, at its own cost and expense, for the operate, maintain, repair, and inspect, and shall be fully responsible for,~~ Facilities specified on Exhibit A, including but not limited to their operation, maintenance, repair, and inspection. Customer shall ensure that the ~~conduct operations of~~ Facilities are operated in compliance with all aspects of the Rules, and Company shall conduct operations on its facilities in compliance with all aspects of the Rules, and as further described and mutually agreed to in the applicable Facility Schedule. Maintenance of Facilities shall be performed in accordance with the applicable manufacturer's recommended maintenance schedule. Customer agrees that it shall ensure that the Facilities are constructed to ~~cause Facilities to be constructed~~ in accordance with specifications equal to or greater than the greater of those provided by the National Electrical Safety Code, approved by the American National Standards Institute, and the National Electrical Code, approved by the National Fire Protection Association, in effect at the time of construction.

Each Party covenants and agrees to design, install, maintain, and operate, or cause the design, installation, maintenance, and operation of, its facilities so as to reasonably minimize the likelihood of a disturbance, originating in the facilities of one Party, affecting or impairing the facilities of the other Party, or other facilities with which Company is interconnected.

Company shall notify Customer if there is evidence that operation of Facilities causes disruption or deterioration of service to other utility customers or if the operation of Facilities causes damage to Company's facilities or other facilities with which Company is interconnected. Company and Customer shall work cooperatively and promptly to resolve the problem.

Customer shall notify Company of any emergency or hazardous condition or occurrence with Facilities which could affect safe operation of Company's facilities or other facilities with which Company is interconnected.

Customer shall provide Company at least 14 days' written notice of a change in ownership or cessation of operations of one or more Facilities.

4. Limitation of Liability and Indemnification

- a. Notwithstanding any other provision in this Agreement, with respect to Company's provision of electric service to Customer other than the interconnections service addressed by this Agreement, Company's liability to Customer shall be limited as set forth in _____ of Company's Commission-approved tariffs, which are incorporated herein by reference.***
- b. Neither Company nor Customer shall be liable to the other for damages for anything that is beyond such Party's control, including an act of God, labor disturbance, act of a public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, a curtailment, order, or regulation or restriction imposed by governmental, military, or lawfully established civilian authorities, or the making of necessary repairs upon the property or equipment of either party.***
- c. Notwithstanding Paragraph 4.b of this Agreement, Company shall assume all liability for and shall indemnify Customer for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Company's negligence in connection with the design, construction, or operation of its facilities as described on Exhibit A; provided, however, that Company shall have no obligation to indemnify Customer for claims brought***

by claimants who cannot recover directly from Company. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Customer's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Customer; (e) damages to the property of a third person; (f) damages for the disruption of the business of a third person. In no event shall Company be liable for consequential, special, incidental, or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Company does not assume liability for any costs for damages arising from the disruption of the business of Customer (or Generator or Premises Owner) or for Customer's (or Generator's or Premises Owner's) costs and expenses of prosecuting or defending an action or claim against Company. This paragraph does not create a liability on the part of Company to Customer or a third person, but requires indemnification where such liability exists. The limitations of liability provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing.

d. Please check the appropriate box.

☐ Private Entity

Notwithstanding Paragraph 4.b of this Agreement, Customer shall assume all liability for and shall indemnify Company for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Customer's (or Generator's or Premises Owner's) negligence in connection with the design, construction, or operation of Facilities as described on Exhibit A; provided, however, that Customer shall have no obligation to indemnify Company for claims brought by claimants who cannot recover directly from Customer. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Company's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Company; (e) damages to the property of a third person; (f) damages for the disruption of the business of a third person. In no event shall Customer be liable for consequential, special, incidental, or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Customer does not assume liability for any costs for damages arising from the disruption of the business of

Company or for Company's costs and expenses of prosecuting or defending an action or claim against Customer. This paragraph does not create a liability on the part of Customer to Company or a third person, but requires indemnification where such liability exists. The limitations of liability provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing. The provisions of this paragraph apply to Texas state and local entities to the extent permitted by the Constitution and laws of the State of Texas.

☐ **Federal Agency**

Notwithstanding Paragraph 4.b of this Agreement, the liability, if any, of Customer relating to this Agreement, for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act (28 U.S.C. §§ 1346, and 2671-2680). Subject to applicable federal, state, and local laws, each Party's liability to the other for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement shall be limited to the amount of direct damages actually incurred, and in no event shall either Party be liable to the other for any indirect, special, consequential, or punitive damages.

- e. Company and Customer shall each be responsible for the safe installation, maintenance, repair, and condition of their respective facilities on their respective sides of the Points of Interconnection. Company does not assume any duty of inspecting Customer's Facilities.*
- f. For the mutual protection of Customer and Company, only with Company prior authorization are the connections between Company's service wires and Customer's service entrance conductors to be energized.*^[SD1]

5. Right of Access, Equipment Installation, Removal & Inspection– Upon reasonable notice, Company may send a qualified person to the premises of Customer at or immediately before the time Facilities first produce energy to inspect the interconnection, and observe Facilities' commissioning (including any testing), startup, and operation for a period of up to three days after initial startup of Facilities.

Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, Company shall have access to Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

If Customer is not the owner of the Facilities, then Customer hereby warrants that it has obtained from the Generator such access by Company to the Facilities as necessary or appropriate for Company to exercise its rights under this Agreement. If Customer does not own the premises upon which the Facilities are located, then Customer also hereby warrants that it has obtained from the Premises Owner such access to the Facilities by Company as is necessary or appropriate for Company to exercise its rights under this Agreement.

6. Disconnection of Facilities – Customer retains the option to disconnect from Company's facilities. Customer shall notify Company of its intent to disconnect by giving Company at least thirty days' written notice. Such disconnection shall not be a termination of this Agreement unless Customer exercises rights under Section 7.

Customer shall disconnect Facilities from Company's facilities upon the effective date of any termination under Section 7.

Subject to Commission Rule, for routine maintenance and repairs of Company's facilities, Company shall provide Customer with seven business days' notice of service interruption.

Company shall have the right to suspend service in cases where continuance of service to Customer will endanger persons or property. During the forced outage of Company's facilities serving Customer, Company shall have the right to suspend service to effect immediate repairs of Company's facilities, but Company shall use its best efforts to provide Customer with reasonable prior notice.

If Customer does not own the premises upon which the Facilities are located and the Premises Owner fails to provide Company access to the Facilities as authorized by this Agreement, then

Company may disconnect the Facilities, and may disconnect electric distribution service to the Customer if necessary in order to disconnect the Facilities from Company's distribution system, until such time that Company is provided access to the Facilities.

7. Effective Term and Termination Rights-- This Agreement becomes effective when executed by both Parties and shall continue in effect until terminated. The Agreement may be terminated for the following reasons: (a) Customer may terminate this Agreement at any time, by giving Company sixty days' written notice; (b) if Customer is not the Premises Owner, Customer may terminate this Agreement coincident with the end of its occupation of the location of the Facilities, and with seven days' written notice; ~~(b)~~ (c) Company may terminate upon failure by Customer to generate energy from Facilities in parallel with Company's facilities within twelve months after completion of the interconnection; ~~(d)~~ (e) either Party may terminate by giving the other Party at least sixty days' written notice that the other Party is in default of any of the material terms and conditions of the Agreement, so long as the notice specifies the basis for termination and there is reasonable opportunity to cure the default; (e) Company may terminate this Agreement by giving Customer seven days' written notice that it has been unable to access the Facilities due to actions taken by the Customer, Generator, or Premises Owner to prevent such access; or ~~(f)~~ (d) Company may terminate by giving Customer at least sixty days' written notice if possible in the event that there is a material change in an applicable rule or statute that necessitates termination of this Agreement.

If Customer terminates retail electric service from Company for the premises containing the point of common coupling, then this Agreement shall be terminated coincident with the termination of retail electric service, and any subsequent customer or occupant at the premises will be required to enter into a new Agreement with Company before beginning operation of the Facilities.

8. Governing Law and Regulatory Authority –*Please check the appropriate box.*

☐ **Private Entity:** This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to, and the Parties' obligations hereunder include, operating in full compliance with all valid, applicable federal, state, and local laws or ordinances, and all applicable

rules, regulations, orders of, and tariffs approved by, duly constituted regulatory authorities having jurisdiction.

☐ **Federal Agency:** This Agreement was executed in the State of Texas and, to the extent not inconsistent with all applicable federal law (including, but not limited to: (a) the Anti-Deficiency Acts, 31 USC §§1341, 1342 and 1501-1519; (b) the Tort Claims Act, 28 USC Chapter 171, §§2671-2680, and 28 CFR Part 14; and (c) the Contract Disputes Act of 1978, as amended, 41 USC §§601-613), must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to, and the Parties' obligations hereunder include, operating in full compliance with all valid, applicable federal, state, and local laws or ordinances, and all applicable rules, regulations, orders of, and tariffs approved by, duly constituted regulatory authorities having jurisdiction.

9. **Amendment** --This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties.

10. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including the attached Exhibit A and Facility Schedules, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the interconnection of the facilities of the Parties at the Points of Interconnection expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation _____ [specify any prior agreements being superseded], and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

11. **Written Notices** – Written notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:

(a) If to Company:

(b) If to Customer:

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other, notwithstanding Section 10.

For Facilities with a capacity of 500 kW or greater, Customer shall provide Company with the name, address, and telephone number of an operations contact person, which may be the same or a different person than set out above, and shall update this information by either written or telephonic notice to Company.

12. **Invoicing and Payment** -- Invoicing and payment terms for services associated with this agreement shall be consistent with applicable Substantive Rules of the Commission.

13. **No Third-Party Beneficiaries** -- This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of Generator, Premises Owner, or any other persons, corporations, associations, or entities other than the Parties, and the

obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

14. **No Waiver** -- The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

15. **Headings** -- The descriptive headings of the various parts of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

16. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

[COMPANY NAME]

[CUSTOMER NAME]

BY:_____

BY:_____

PRINTED NAME

PRINTED NAME

TITLE:_____

TITLE:_____

DATE:_____

DATE:_____

(p) (No change)

[Option 2: Draft interconnection agreement and tariff allowing a party other than the end-use customer to be a signatory to the agreement]

§25.211. Interconnection of On-Site Distributed Generation (DG).

(a) – (o) (No change.)

(p) **Agreement for Interconnection and Parallel Operation of Distributed Generation.**

**AGREEMENT FOR INTERCONNECTION AND PARALLEL OPERATION
OF DISTRIBUTED GENERATION**

This Interconnection Agreement (“Agreement”) is made and entered into this _____ day of [FM2] _____, 20____, by _____, (“Company”), and _____ (“Customer”), a _____ [specify whether individual or corporation, and if corporation, ~~se~~ name, state [FM3], municipal corporation, cooperative corporation, or other], each hereinafter sometimes referred to individually as “Party” or both referred to collectively as the “Parties”.

CHECK ONE BOX BELOW TO INDICATE THE TYPE OF ENTITY ENTERING INTO THIS AGREEMENT AND, IF APPLICABLE, THAT THE ENTITY IS ACTING AS AGENT FOR END-USE CUSTOMER (End-Use Customer MUST check the first box):

☐ Option 1: “Customer” is the end-use customer who pays for the provision of retail electric service (also referred to as “End-Use Customer”).

☐ Option 2: “Customer” is the entity that owns the distributed generation Facilities (also referred to as “Generator”). Customer is acting as the agent for End-Use Customer for all purposes with

respect to this Agreement, and any reference herein to “Customer” shall also refer to “End-Use Customer.”

☐ Option 3: “Customer” owns the premises upon which the Facilities will be located (also referred to as “Premises Owner”). Customer is acting as the agent for End-Use Customer for all purposes with respect to this Agreement, and any reference herein to “Customer” shall also refer to “End-Use Customer.”

Notwithstanding any other provision herein, or any rules or statutes to the contrary, the entity referred to as “Customer” herein shall be the entity defined in the box checked above.

If either Option 2 or Option 3 are selected above, the signature of the end-use customer is required below and signifies that the end-use customer is aware of and approves the execution of the Agreement by a party other than the end-use customer:

End-use Customer Name

End-use Customer Signature

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

With the exception of the definition of “Customer” checked above, the definitions of terms used herein shall be those found in Public Utility Commission of Texas (“Commission”) Substantive Rules 25.211 relating to Interconnection of Distributed Generation and 25.212, relating to Technical requirements for Interconnection and Parallel Operation of On-Site Distributed Generation (16 Texas Administrative Code §25.211 and §25.212) (the “Rules”), and Company’s Tariff for Retail Delivery Service.

1. Scope of Agreement -- This Agreement is applicable to conditions under which Company and Customer agree that one or more generating facility or facilities of ten megawatts or less and related interconnecting facilities to be interconnected at less than 60 kilovolts (“Facilities”) may be interconnected to Company’s facilities, as described in Exhibit A

~~With the exception of the definition of “Customer” checked above, the definitions of terms used herein shall be those found in Public Utility Commission of Texas (“Commission”) Substantive Rules 25.211 relating to Interconnection of Distributed Generation and 25.212, relating to Technical requirements for Interconnection and Parallel Operation of On-Site Distributed Generation (16 Texas Administrative Code §25.211 and §25.212) (the “Rules”), and Company’s Tariff for Retail Delivery Service.~~

2. **Establishment of Point(s) of Interconnection** -- Company and Customer agree to interconnect Facilities at the locations specified in this Agreement, in accordance with ~~Public Utility Commission of Texas (“Commission”) Substantive Rules 25.211, relating to Interconnection of Distributed Generation, and 25.212, relating to Technical requirements for Interconnection and Parallel Operation of On Site Distributed Generation (16 Texas Administrative Code §25.211 and §25.212)~~ (the “Rules”) or any successor rule addressing distributed generation and as described in the attached Exhibit A (the “Point(s) of Interconnection”).

3. **Responsibilities of Company and Customer** -- Customer ~~shall, at its own cost and expense, shall be fully responsible, at its own cost and expense, for the operate, maintain, repair, and inspect, and shall be fully responsible for,~~ Facilities specified on Exhibit A, including but not limited to their operation, maintenance, repair, and inspection. If the Customer is not the End-Use Customer, Customer affirms that the End-Use Customer has approved of the design and location of the facilities. Customer shall ensure that the ~~conduct operations of~~ Facilities are operated in compliance with all aspects of the Rules, and Company shall conduct operations on its facilities in compliance with all aspects of the Rules, and as further described and mutually agreed to in the applicable Facility Schedule. Maintenance of Facilities shall be performed in accordance with the applicable manufacturer’s recommended maintenance schedule. Customer agrees that it shall ensure that the Facilities are constructed~~to cause Facilities to be constructed~~ in accordance with specifications equal to or greater than the greater of those provided by the National Electrical Safety Code, approved by the American National Standards Institute, or the National Electrical Code, approved by the National Fire Protection Association, in effect at the time of construction.

Each Party covenants and agrees to design, install, maintain, and operate, or cause the design, installation, maintenance, and operation of, its facilities so as to reasonably minimize the

likelihood of a disturbance, originating in the facilities of one Party, affecting or impairing the facilities of the other Party, or other facilities with which Company is interconnected.

Company shall notify Customer if there is evidence that operation of Facilities causes disruption or deterioration of service to other utility customers or if the operation of Facilities causes damage to Company's facilities or other facilities with which Company is interconnected. Company and Customer shall work cooperatively and promptly to resolve the problem.

Customer shall notify Company of any emergency or hazardous condition or occurrence with Facilities which could affect safe operation of Company's facilities or other facilities with which Company is interconnected.

Customer shall provide Company at least 14 days' written notice of a change in ownership or cessation of operations of one or more Facilities.

4. *Limitation of Liability and Indemnification*

- a. *Notwithstanding any other provision in this Agreement, with respect to Company's provision of electric service to Customer other than the interconnections service addressed by this Agreement, Company's liability to Customer shall be limited as set forth in _____ of Company's Commission-approved tariffs, which are incorporated herein by reference.***
- b. *Neither Company nor Customer shall be liable to the other for damages for anything that is beyond such Party's control, including an act of God, labor disturbance, act of a public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, a curtailment, order, or regulation or restriction imposed by governmental, military, or lawfully established civilian authorities, or the making of necessary repairs upon the property or equipment of either party.***
- c. *Notwithstanding Paragraph 4.b of this Agreement, Company shall assume all liability for and shall indemnify Customer for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Company's negligence in connection with the***

design, construction, or operation of its facilities as described on Exhibit A; provided, however, that Company shall have no obligation to indemnify Customer for claims brought by claimants who cannot recover directly from Company. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Customer's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Customer; (e) damages to the property of a third person; (f) damages for the disruption of the business of a third person. In no event shall Company be liable for consequential, special, incidental, or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Company does not assume liability for any costs for damages arising from the disruption of the business of Customer (or Generator or Premises Owner if they are not the Customer) or for Customer's (or Generator's or Premise Owner's if they are not the Customer) costs and expenses of prosecuting or defending an action or claim against Company. This paragraph does not create a liability on the part of Company to Customer or a third person, but requires indemnification where such liability exists. The limitations of liability provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing.

d. Please check the appropriate box as to whether Customer is either a Federal Agency or some other type of entity ("Entity Other than a Federal Agency").

☐ ~~Private~~ Entity Other than a Federal Agency

Notwithstanding Paragraph 4.b of this Agreement, Customer shall assume all liability for and shall indemnify Company for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Customer's (or Generator's or Premises Owner's) negligence in connection with the design, construction, or operation of Facilities as described on Exhibit A; provided, however, that Customer shall have no obligation to indemnify Company for claims brought by claimants who cannot recover directly from Customer. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Company's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Company; (e) damages to the property of a third person; (f)

damages for the disruption of the business of a third person. In no event shall Customer be liable for consequential, special, incidental, or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Customer does not assume liability for any costs for damages arising from the disruption of the business of Company or for Company's costs and expenses of prosecuting or defending an action or claim against Customer. This paragraph does not create a liability on the part of Customer to Company or a third person, but requires indemnification where such liability exists. The limitations of liability provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing. The provisions of this paragraph apply to Texas state and local entities to the extent permitted by the Constitution and laws of the State of Texas.

☐ **Federal Agency**

Notwithstanding Paragraph 4.b of this Agreement, the liability, if any, of Customer relating to this Agreement, for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act (28 U.S.C. §§ 1346, and 2671-2680). Subject to applicable federal, state, and local laws, each Party's liability to the other for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement shall be limited to the amount of direct damages actually incurred, and in no event shall either Party be liable to the other for any indirect, special, consequential, or punitive damages.

- e. Company and Customer shall each be responsible for the safe installation, maintenance, repair, and condition of their respective facilities on their respective sides of the Points of Interconnection. Company does not assume any duty of inspecting Customer's Facilities.*
- f. For the mutual protection of Customer and Company, only with Company prior authorization are the connections between Company's service wires and Customer's service entrance conductors to be energized.* [SD4]

5. Right of Access, Equipment Installation, Removal & Inspection– Upon reasonable notice, Company may send a qualified person to the premises of Customer at or immediately before

the time Facilities first produce energy to inspect the interconnection, and observe Facilities' commissioning (including any testing), startup, and operation for a period of up to three days after initial startup of Facilities.

Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, Company shall have access to Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

If Customer is not the owner of the Facilities, then Customer hereby warrants that it has obtained from the Generator such access by Company to the Facilities as necessary or appropriate for Company to exercise its rights under this Agreement. If Customer does not own the premises upon which the Facilities are located, then Customer also hereby warrants that it has obtained from the Premises Owner such access to the Facilities by Company as is necessary or appropriate for Company to exercise its rights under this Agreement.

6. Disconnection of Facilities – Customer retains the option to disconnect from Company's facilities. Customer shall notify Company of its intent to disconnect by giving Company at least thirty days' written notice. Such disconnection shall not be a termination of this Agreement unless Customer exercises rights under Section 7.

Customer shall disconnect Facilities from Company's facilities upon the effective date of any termination under Section 7.

Subject to Commission Rule, for routine maintenance and repairs of Company's facilities, Company shall provide Customer with seven business days' notice of service interruption.

Company shall have the right to suspend service in cases where continuance of service to Customer will endanger persons or property. During the forced outage of Company's facilities serving Customer, Company shall have the right to suspend service to effect immediate repairs of Company's facilities, but Company shall use its best efforts to provide Customer with reasonable prior notice.

If Customer does not own the premises upon which the Facilities are located and the Premises Owner fails to provide Company access to the Facilities as authorized by this Agreement, then Company may temporarily disconnect the Facilities, and may temporarily disconnect electric distribution service to the Customer if necessary in order to disconnect the Facilities from Company's distribution system, until such time that Company is provided access to the Facilities.

7. Effective Term and Termination Rights-- This Agreement becomes effective when executed by both Parties and shall continue in effect until terminated. The Agreement may be terminated for the following reasons: (a) Customer may terminate this Agreement at any time, by giving Company sixty days' written notice; (b) if Customer is not the Premises Owner, Customer may terminate this Agreement coincident with the end of its occupation of the location of the Facilities, and with seven days written notice; ~~(bc)~~ Company may terminate upon failure by Customer to generate energy from Facilities in parallel with Company's facilities within twelve months after completion of the interconnection; ~~(de)~~ either Party may terminate by giving the other Party at least sixty days' written notice that the other Party is in default of any of the material terms and conditions of the Agreement, so long as the notice specifies the basis for termination and there is reasonable opportunity to cure the default; (e) Company may terminate this Agreement by giving Customer[FM5][SD6] seven days written notice that it has been unable to access the Facilities due to actions taken by the Generator or Premises Owner to prevent such access; or ~~(fd)~~ Company may terminate by giving Customer at least sixty days' written notice if possible in the event that there is a material change in an applicable rule or statute that necessitates termination of this Agreement.

If Customer is not the End-Use Customer, then should End-Use Customer terminate retail electric service from Company for the premises containing the point of common coupling, this Agreement shall continue to remain in full force and effect.

8. Governing Law and Regulatory Authority –*Please check the appropriate box.*

☐ **Private Entity Other than a Federal Agency**: This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to, and the Parties' obligations hereunder include, operating in full compliance with all valid, applicable federal, state, and local laws or ordinances,

and all applicable rules, regulations, orders of, and tariffs approved by, duly constituted regulatory authorities having jurisdiction.

□ **Federal Agency:** This Agreement was executed in the State of Texas and, to the extent not inconsistent with all applicable federal law (including, but not limited to: (a) the Anti-Deficiency Acts, 31 USC §§1341, 1342 and 1501-1519; (b) the Tort Claims Act, 28 USC Chapter 171, §§2671-2680, and 28 CFR Part 14; and (c) the Contract Disputes Act of 1978, as amended, 41 USC §§601-613), must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to, and the Parties' obligations hereunder include, operating in full compliance with all valid, applicable federal, state, and local laws or ordinances, and all applicable rules, regulations, orders of, and tariffs approved by, duly constituted regulatory authorities having jurisdiction.

9. **Amendment** --This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties.

10. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including the attached Exhibit A and Facility Schedules plus any Commission-approved Addendum, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the interconnection of the facilities of the Parties at the Points of Interconnection expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation _____ [specify any prior agreements being superseded], and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

11. **Written Notices** – Written notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:

(b) If to Company:

(b) If to Customer:

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other, notwithstanding Section 10.

For Facilities with a capacity of 500 kW or greater, Customer shall provide Company with the name, address, and telephone number of an operations contact person, which may be the same or a different person than set out above, and shall update this information by either written or telephonic notice to Company.

12. **Invoicing and Payment** -- Invoicing and payment terms for services associated with this agreement shall be consistent with applicable Substantive Rules of the Commission.

13. Disclosure of Information to End-Use Customer – If Customer is not the End-Use Customer, Company is hereby authorized to provide any information requested by the End-Use Customer concerning the Facilities.

143. No Third-Party Beneficiaries -- This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

154. No Waiver -- The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

156. Headings -- The descriptive headings of the various parts of this Agreement have been inserted- for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

167. Multiple Counterparts -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

[COMPANY NAME]

[CUSTOMER NAME]

BY:_____

BY:_____

PRINTED NAME

PRINTED NAME

TITLE:_____

TITLE:_____

DATE:_____

DATE:_____

EXHIBIT A

LIST OF FACILITY SCHEDULES AND POINTS OF INTERCONNECTION

| <u>Facility Schedule No.</u> | <u>Name of Point of Interconnection</u> | <u>Customer No.</u> <u>or ESI ID No.</u> |
|------------------------------|---|---|
|------------------------------|---|---|

[Insert Facility Schedule number, ~~and~~ name, and Customer Number or ESI ID Number for each Point of Interconnection]

FACILITY SCHEDULE NO.

[The following information is to be specified for each Point of Interconnection, if applicable.]

1. Customer Name:

2. Premises Owner Name:

3. Facility location:

4. Delivery voltage:

5. Metering (voltage, location, losses adjustment due to metering location, and other):

6. Normal Operation of Interconnection (check one):

_____ Non-exporting, up to _____ kW(ac)

_____ Exporting, up to _____ kW(ac)

Additional information: _____

7. One line diagram attached (check one): _____ Yes / _____ No

If **Yes**[FM7], then the one-line drawing should show the most current drawing(s) available as of the signing of this Schedule. Company and Customer agree drawing(s) may be updated to meet as-built or design changes that occur during construction. Customer understands and

agrees that any changes that substantially affect the protective or functional requirements required by the Company will need to be reviewed and accepted by Company.

8. Equipment to be furnished by Company:

(This section is intended to generally describe equipment to be furnished by Company to effectuate the interconnection and may not be a complete list of necessary equipment.)

9. Equipment to be furnished by Customer:

(This section is intended to describe equipment to be furnished by Customer to effectuate the interconnection and may not be a complete list of necessary equipment.)

10. Cost Responsibility and Ownership and Control of Company Facilities:

Unless otherwise agreed or prescribed by applicable regulatory requirements or other law, any payments received by Company from Customer will remain the property of Company. Company shall at all times have title and complete ownership and control over facilities installed by Company.

11. Modifications to Customer Facilities.

Customer understands and agrees that, before making any modifications to its Facilities that substantially affect the protective or interconnection parameters or requirements used in the interconnection process (including in an Pre-interconnection Study performed by Company), Customer will both notify Company of, and receive approval by Company for, such modifications. Customer further understands and agrees that, if required pursuant to Commission Substantive Rule 25.211(m)(5), it will submit a new Application for Interconnection and Parallel Operation request for the desired modifications. If Customer makes modifications without first obtaining Company's approval, Company may disconnect service to Customer or curtail the output of the Facilities until such time as Customer submits a new Application and obtains Company's approval.

12. Supplemental terms and conditions attached (check one): ____ Yes / ____ No

[COMPANY NAME]

[CUSTOMER NAME]

BY:_____

BY:_____

PRINTED NAME:_____

PRINTED NAME:_____

TITLE:_____

TITLE:_____

DATE:_____

DATE:_____

§25.211 (q)(1)

**INTERCONNECTION AND
PARALLEL OPERATION OF DISTRIBUTED GENERATION**

X.X Distributed Generation Interconnection

Sheet: __

Applicable: Retail Distribution Service

Revision: __

Effective Date: _____

Page __

Company shall interconnect distributed generation pursuant to Public Utility Commission of Texas Substantive Rules 25.211 and 25.212.

A customer seeking interconnection and parallel operation of distributed generation with Company must complete and submit the Application for Interconnection and Parallel Operation of Distributed Generation with the Utility System.

**Prescribed Form for the Application for Interconnection and Parallel Operation of
Distributed Generation**

Customers seeking to interconnect distributed generation with the utility system will complete and file with the company the following Application for Parallel Operation:

**APPLICATION FOR INTERCONNECTION AND
PARALLEL OPERATION OF DISTRIBUTED GENERATION**

Return Completed Application to:

[Utility name] _____

Attention: [applicable name and/or job title]

[Address] _____

Customer's Name: _____

Mailing Address: _____

Contact Person: _____

Email Address: _____

Telephone Number: _____

Premise Owner's Name (if different than Customer): _____

Service Point Address: _____

ESI ID or Customer Account Number: _____

Information Prepared and Submitted By: _____

(Name and Address) _____

Customer or Preparer Signature _____

The following information shall be supplied by the Customer or Customer's designated representative. All applicable items must be accurately completed in order that the Customer's generating facilities may be effectively evaluated by the _____(Company) for interconnection with the utility system.

GENERATOR

Type (Synchronous, Induction, or Inverter): _____

Number of Units: _____

Manufacturer and Model: _____

~~Type (Synchronous, Induction, or Inverter):~~ _____

Fuel Source Type (Solar, Natural Gas, Wind, etc.): _____

Kilowatt Rating (95 F at location)(ac) _____

Kilovolt-Ampere Rating (95 F at location): _____

Power Factor: _____

Voltage Rating: _____

Number of Phases: _____

Frequency: _____

Do you plan to export power: _____ Yes / _____ No /

If Yes, maximum amount expected: _____

Do you wish [utility name] to report excess generation to your REP? _____ Yes / _____ No

Pre-Certification Label or Type Number (e.g., UL-1741 Utility Interactive or IEEE 1547.1):

Expected Energization and Start-up Date: _____

Normal operation of interconnection: (examples: provide power to meet base load, demand management, standby, back-up, other (please describe))_____

One-line diagram attached: _____Yes

For systems not using pre-certified inverters (e.g., inverters certified to UL-1741 or IEEE 1547.1), does [utility name] have the dynamic modeling values from the generator manufacturer? _____Yes _____No

If not, please explain: _____

(Note: For pre-certified equipment, the answer is Yes. Otherwise, applicant must provide the dynamic modeling values if they are available.)

Layout sketch showing lockable, "visible," [accessible and manual](#) disconnect device is attached: _____Yes

Authorized Release of Information List

By signing this Application in the space provided below, Customer authorizes [utility name] to release Customer's proprietary information to the extent necessary to process this Application to the following persons:

| | Name | Phone Number | Email Address |
|-----------------------|------|--------------|---------------|
| Project Manager | | | |
| Electrical Contractor | | | |
| Consultant | | | |
| Other | | | |

[COMPANY NAME]

[CUSTOMER NAME]

BY: _____

BY: _____

PRINTED NAME

PRINTED NAME

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____